

REMARKS

Claims 1, 3, 5-21, 23, 25-27, 40 and 44 are pending in the above-identified application. Claim 1 has been amended such that W is oxygen. Claim 3 has been amended to be consistent with claim 1. Claim 14 has been amended with respect to a minor punctuation change.

Unity of Invention Requirement

The claims of this application have been subjected to a Unity of Invention Requirement as follows:

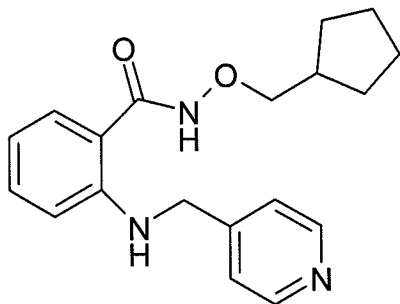
Group I – claims 1, 3, 5-21, 23, and 25-27 directed to compounds of Formula I and compositions containing the same; and

Group II – claims 40 and 44 directed to methods of using the compounds of Formula I.

Applicant hereby elects the subject matter of Group I, i.e. claims 1, 3, 5-21, 23, and 25-27, with traverse. The Unity Requirement asserts that the only structural element shared among the claimed compounds is –N-C-C-C-N-O. However, in the presently amended claims the significant shared structural element further includes in Formula I an oxo group substitution (=O represented by substituent “W”) to form a substituted hydroxamic acid ester moiety. The structural element of a (hetero)benzohydroxamic acid ester, which is substituted in the 2-position with an amino further substituted by a cyclic (hetero)hydrocarbon via a spacer X is a shared special technical feature among the claimed compounds. This feature has not been recognized prior to the present invention as having a common property among the claimed compounds of being suitable for use in the treatment of cancer and neoplastic diseases, as well as ophthalmic diseases. Thus, this special technical feature defines over the prior art. Also, it is requested that the non-elected subject matter of Group II now be considered, since Applicant is entitled to at least an independent claim directed to a method of use of a product together with an elected independent claim directed to that product. See MPEP, Annex B, Unity of Invention, Administrative Instructions under the PCT, Rev. 6, Sept. 2007, Section (e)(i), pp. AI-58 to AI-59. In view of these points, it is submitted that all of the present claims have unity such that the above Unity Requirement should be withdrawn.

Election of Species Requirement

Applicant has also been required to provisionally elect a single disclosed compound species. Applicant hereby provisionally elects Compound No. 113 as the single disclosed species. This provisional election is made with traverse. This compound is mentioned in Table 1 at page 70 of the specification. This compound has the following structure:



The present claims which encompass Compound 113 include: 1,2,4,5,9,10,12,13,14,18 as well as process and method claims. The corresponding R-groups in formula I in the present claims are defined as:

R1: hydrogen

D, E, F, G: -CH-

R2: hydrogen

R3: hydrogen

R4: hydrogen

R5: hydrogen

W: oxygen

X: -CH₂-

Y: -CH₂-

B: heteroaryl

R8: hydrogen

A: cyclic, saturated hydrocarbon

R9: hydrogen

The above Election Requirement is respectfully traversed. It is submitted for the reasons noted above in connection with the Unity Requirement that the compounds of Formula I in the present claims share a special technical feature. Further, in view of the shared core structure of the compounds recited in the present claims, it is submitted that there is no undue burden placed on the Examiner to proceed to examine all of the compounds falling with Formula I. Thus, it is requested that this Election Requirement be withdrawn.

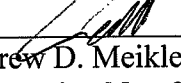
Applicant reserves the right to file a Divisional Application to any of the cancelled or non-elected subject matter.

If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 16, 2009

Respectfully submitted,

By 
Andrew D. Meikle
Registration No.: 32,868
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant